IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3305 of 2005

Date of decision: February 7, 2007.

Teku alias Sat Pakash

....Petitioner

Vs.

Jai Bhagwan etc.

-....Respondents.

Present: Mr. R.S.Longia, Advocate for the petitioner.
Mr. Pritam Saini, Advocate for respondents.

JUDGMENT

M.M.Aggarwal, J.

This petition is against order dated 16.9.2004 of Civil Judge (Junior Division), Kurukshetra, whereby plaintiff [now petitioner] had been directed to affix ad-valorem court-fee on the sale consideration of Rs.1,92,000/- shown in the sale deed dated 23.2.1998, which had been challenged by the plaintiff.

Plaintiff [now petitioner] had filed suit for declaration challenging the power of attorney stated to be executed by him in favour of defendant No.1 on 30.4.1997 and then sale deed dated 23.2.1998 stated to have been executed by defendant No.1, on behalf of the plaintiff, in favour of defendant No.2 regarding land measuring 17 kanals sold by defendant No.1 to defendant

No.2 on the basis of that power of attorney. It had been pleaded that the sale deed dated 23.2.1998 was totally unlawful, illegal, incompetent and not binding on the rights of the plaintiff and plaintiff continued to be owner of the land stated to be sold. In that suit, defendants had filed objections that ad-valorem court fee on the sale consideration shown in sale deed dated 23.2.1998, was required. That plea of the defendants was accepted and the impugned order was made.

On behalf of the petitioner, it was argued that plaintiff had challenged power of attorney itself, on the basis of which sale deed was executed and, as such, plaintiff was not bound to pay ad-valorem court fee. Whereas on behalf of the respondent-defendants, it was argued that the sale was for a consideration of Rs.1,92,000/- and it was virtually for cancellation of sale deed dated 23.2.1998 and, as such, ad-valorem court fee has to be paid on the sale consideration amount.

Counsel for the parties had relied on **Niranjan Kaur Vs. Nirbigan Kaur 1982 PLR 127, Harish Chander and others Vs. Gurbachan Singh and others 2000 (3) PLR 272, Ram Singh and others Vs. Labh Singh and others 2006(3) RCR (Civil) 208, KrishanDevi and another Vs. Jaswant singh 2006(4) RCR (Civil) 563 and Sita Wanti Vs. Yash Pal Singh 2007(1) PLR 86 and Anil Rishi Vs. Gurbaksh Singh 1998(2) PLR 417.**

In this case, from the plaint it would appear that plaintiff had admitted having gone to the office of Sub-Registrar but had pleaded that the power of attorney was got prepared fraudulently and got executed on the pretext of arranging his marriage deed.

Thumb-impressions on the power of attorney are not denied. In this case, the suit is virtually for cancellation of the sale deed.

After going through the judgments relied on by counsel for the parties and copies of power of attorney dated 30.4.1997 and sale deed dated 23.2.1998, I do not find any infirmity in the order of the trial Court directing the plaintiff to pay ad-valorem court fee. As such, this petition is dismissed without expressing any opinion on the merits of the main controversy. Let deficiency in the court fee be made good within one month.

(M.M.Aggarwal)
Judge

February , 2007
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